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1864  
Jacob Meritt

# REPORT

OF

HON. MR. HOWARD,

IN THE

United States Senate,

ON

INTERFERENCE IN ELECTIONS

BY

MILITARY AND NAVAL OFFICERS.



PHILADELPHIA :

.....  
1864.

Presented by Jacob Meritt

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IN THE SENATE OF THE UNITED STATES.

FEBRUARY 12, 1864.

MR. HOWARD made the following

REPORT.

*The Committee on Military Affairs and the Militia, to whom was referred Senate bill No. 37, entitled "A bill to prevent officers of the army and navy, and other persons engaged in the military and naval service of the United States, from interfering in elections in the States," beg leave to report :*

THE first section of the bill provides that "it shall not be lawful for any military or naval officer of the United States, or other person engaged in the civil, military, or naval service of the United States, to order, bring, keep, or have under his authority or control, any troops or armed men within one mile of the place where any general or special election is held in any State of the United States of America ; and that it shall not be lawful for any officer of the army or navy of the United States to prescribe or fix, or attempt to prescribe or fix, by proclamation, order, or otherwise, the qualifications of voters in any State of the United States of America, or in any manner to interfere with the freedom of any election in any State, or with the exercise of the free right of suffrage in any State of the United States," and punishes any violation of this provision by fine and imprisonment, as well as disqualification to hold any office of honor, trust, or profit under the government of the United States.

The second section provides that "any officer or person in the military or naval service of the United States who shall order or advise, or who shall, directly or indirectly, by force, threat, menace, intimidation, or otherwise, prevent, or attempt to prevent, any qualified voter of any State of the United States of America from freely exercising the right of suffrage at any general or special election in any State of the United States, or who shall, in like manner, compel, or attempt to compel, any officer of an election in any such State to receive a vote from a person not legally qualified to vote, or who shall impose, or attempt to impose, any rules or regulations for conducting such election different from those prescribed by law, or interfere, in any manner, with any officer of said election in the discharge of his duties, shall, for every such offence, be liable to indictment as for a misdemeanor," and punishes him with fine and imprisonment, and the like disqualification.

The bill is founded upon the supposition that the military have in some instances interfered in an illegal or improper way with popular elections in the States, and seeks to prevent that evil for the future by the infliction of severe pains and penalties.

That elections should be free from all violence and intimidation, is an axiom of free government accepted by all, and so evident that it need not be discussed. Violence and threats of violence, and all disturbance, actual or threatened, calculated to keep the legal voter from the polls, or to constrain his free will and choice in exercising his right, are plainly incompatible with the principles on which our governments, whether State or federal, rest. But it must



at the same time be remembered that the *purity* of elections is equally essential to the proper working of that theory; and that to admit to the polls persons not possessing the requisite qualifications of age, citizenship, residence, &c., is by no means a less injury to the rights of the lawful elector than open violence. No one pretends to excuse or palliate the offenses of those who, being minors, or aliens, or non-residents, or without other qualifications demanded by the law, intrude themselves at elections and seek to defeat the will of those who are entitled; and no honest man, who is a friend of his country, would ever consent that persons who are hostile to that country, who are in arms against it, or contributing by word or deed to strengthen the hands of those who are making war upon it, should be allowed to associate as electors with those who defend it by their blood or treasure. The elective franchise is intended for the benefit of the *friends* of the government under which we live, and those who are willing to maintain and uphold it, and for no others. It was never intended to be used by mere aliens, and least of all by *enemies*, whether domestic or foreign; and any attempt of either class of enemies to use that sacred privilege is just cause of resentment to the honest citizen, and of prompt interference by the government itself.

It is said, by way of furnishing a precedent for the bill, that by the laws of England in force for more than a century, no body of the King's troops is allowed to be near the place of an election while it is progressing. Reference is doubtless had to the act of 8th George II., (1735,) a copy of which we append to this Report, marked A. It cannot escape notice that the leading object of this ancient statute, as sufficiently evidenced by the preamble, was "*the preservation of the rights and liberties of the kingdom,*" not their destruction. And the history of the time shows that the prohibition to keep military forces near places where there was an election of members of Parliament, arose from outrages practiced upon the electors by the ministers in posting troops so as to overawe them, and coerce them into the returning of candidates friendly to the ministerial party, and the supporters of prerogative against popular rights. And we are told that, so far did this party push their schemes that in 1734, the year before the act was passed, the ministers, before the election took place, made out a list of the sixteen Scottish peers who were to be elected, which was approved by the Crown; and that, among other foul means resorted to for securing their election, a battalion of the King's troops were drawn up in the court of Edinburgh, contrary to custom, and without any apparent cause but that of overawing the electors. This outrage appears to have been the immediate occasion of the passage of the act. It was passed in the interest of liberty, and in resistance of the tyrannical schemes of the Crown and its flatterers to check its growth by stifling the voice of free election.

No one need be told that, long anterior to the passage of any of the secession ordinances, there was a strong party in many of the northern slave States who joined in the threat to break up the Union in the event of the election of a republican President.

That there have been all along, and still are, great numbers of such persons in the several "border States," admits of no doubt. It is perfectly notorious that when the rebellion broke out, there were large and influential portions of the people of Missouri, Kentucky, Maryland, and Delaware, who were open supporters and advocates of the rebellion. They were found in every neighborhood, in all branches of business, and all the walks of life. By thousands they entered the rebel army, both as officers and men, leaving at home thousands of friends and relatives as traitorous at heart as themselves. These last kept up the agitation in favor of secession and the slave confederacy. No locality was free from their agitations and their artifices. They encouraged the rebels by keeping up angry divisions at home. They sent information to, and were in constant communication with, the rebels and the rebel chiefs. Remaining in the midst of communities not in open insurrection, but apparently ready to spring to arms



against the federal authority, they industriously acted the part of spies, and did all in their power to thwart the efforts of the government. Multitudes of them were continually passing to and fro between the hostile lines, carrying to the rebels supplies of arms, provisions, clothing, medical and military stores, and bringing back encouraging stories of the prosperity of the rebel cause, and the hopelessness of the efforts of the government to defeat and destroy it. Their houses became the asylums of emissaries and spies from the rebel army, and rebel districts, and the refuge and hiding-places of rebel recruiting officers. And so formidable were they in numbers, influence, activity, and craft, that during the year 1861 the whole loyal population were under an apprehension, most painful and depressing, that they might succeed in shuffling those States out of the Union, as the bolder secessionists had done with the ten seceding States. And it cannot be doubted that, but for the presence of the loyal troops who hastened from the North to hold those States to their allegiance by the iron grip of war, they too would have proved false to the Union and Constitution, and would to-day have been, as communities, either in arms against the government of the United States, or in its military occupation. That they are still in the Union, and in the enjoyment of their rights and high privileges under it, is due to the Union bayonet, and to the spotless faith and heroic courage of the true Unionists they contain—far less numerous than has generally been supposed.

One of the most obvious artifices for injuring the Union cause, and the one most easily practiced by these domestic traitors, was to bring about the election to Congress and the State legislatures of persons friendly to the rebellion, or at least opposed to the prosecution of the war for its suppression, and to the measures adopted by the government to that end; and the undisputed history of the twelve months just past proves that they have not failed to take advantage of it. They have let slip no occasion of this kind, and it has required all the vigilance of loyal men to detect and counteract their schemes. One principal prop of the rebel hope has ever been, and continues to be, the divided counsel of the loyal people; the assumed weakness of the government, growing out of the more democratic condition of the people of the North, among whom there is wanting any great and pervading pecuniary interest like slavery, to bind together all others, and give unity of purpose and vigor of action to the government. They have from the first acted upon the assumption that the North would become weak by its own party divisions, and would, after a few spasmodic efforts, give over the cause, yield to dishonorable terms, and finally fall into imbecile fragments, unworthy to be called nations; an easy prey to foreign powers; the scoff of the slave-owning confederacy, and the future victims of its schemes of ambition. Hence they have omitted no artifice, no intrigue, no falsehood, or false pretence, to stir up disaffection among us. Among many others we may mention the insidious proposal made by their agents in 1862, to certain sympathizing friends in the northwestern States, to grant to those States the *free navigation* of the Mississippi, and free trade with the "confederacy," on condition of their abandoning the war, and detaching themselves from the eastern States.

It is vain to deny that in the present struggle the government of the United States is justly, and upon principles of public law, entitled to exercise towards their domestic enemies every belligerent right and power, every warlike appliance, recognized in the code of war; and that it is not only the right but the duty, of their officers and agents, in waging the contest, to exercise the utmost vigilance in detecting, restraining, and punishing the common enemy, and all who abet, sustain, or encourage him. To deny to it this right is to lay it prostrate and helpless at the feet of its deadly foes.

Were the war a foreign war, waged with any independent nation, there could be no dispute as to the right of the government to expel from the country every subject of the foreign power, and every person justly suspected of giving it aid and comfort, or to hold such parties in confinement till the war should terminate.



This right is in the primary class of belligerent rights, pertaining to every independent nation; and no greater absurdity can be proposed than to say that, although the federal government is vested with all the powers known to the laws and usages of war, and may, unrestrained by any constitutional prohibition, use them against the subjects of a foreign government at war with the United States, yet, as to an organized, wide-spread insurrection of whole political communities within their own limits, acting under a *de facto*, though a usurped government, it is stripped and denuded of this important means of annoyance and defence. It is plainly in its essence a military power—a belligerent right; as plainly such as the right of capture by sea, which has recently received the solemn sanction of the Supreme Court, in a judgment eminent for the power and clearness of its analysis, the profoundness of its learning, and the unanswerable character of its logic.

It does not by any means follow, that because the insurgents are individually subject in law to the authority of the United States, they are not to be treated as enemies. To yield to them the rights as citizens, and the protection that in peace would be due to them as such, and at the same time to treat them and the communities to which they belong as enemies at war with the United States, involves a glaring contradiction. If they are in the sense of the law of war and nations *enemies*, as they are regarded, both by the legislation of Congress, the executive and the judicial departments of the government, the correctness of whose decision as to their true *status* cannot and ought not to be questioned, then they are lawfully subject, whether as individuals or communities, to the application of all the rules and means of warfare known to civilized nations; and this, in addition to the further and undoubted right of the government to punish them for the crime of treason they commit against it. We might appeal in support of this principle to the most eminent teachers of public law, but it is so well recognized that the task would be useless.

If, then, they are enemies as well as insurgents, the rights of war give to our commanders in the field the use of all the means necessary to make the war on our part successful and effectual, and consequently justify them to resort to any and all measures calculated to defeat and thwart their schemes against our safety, whether those schemes be open violence or secret plots; whether they use the bayonet or the ballot to effectuate their traitorous purposes. Suppose a State, yesterday loyal, to-day passes an ordinance of secession, or declares itself neutral and indifferent between the contending parties, and proceeds by its *de facto* legislature to resist the authority of the government by open force, by attempting to prevent the levy of troops within its borders, or by attempting to prevent the passage of the Union troops across its territory; who will contend that it would not be the right and duty of the commander on the spot at once to disperse or arrest the legislature, to lay the State under martial law, and place in confinement every person found aiding the disloyal movement, or justly suspected of so doing?

And it is impossible to see any distinction in principle, between such a case and the case of disloyal voters, who at the polls attempt by their ballots to do the same thing. In either case *hostility* to the government and a desire for its overthrow stand as the sufficient reason for the preventive interference of the military arm. Not to use it on proper occasions is to expose to destruction the government itself, and the liberties and rights it guards. It is the inalienable duty of self-defence.

That this inherent right of war may be abused, as it possibly may have been occasionally during the present struggle, is certainly no reason for denying its existence, or, if it exists, for stripping our commanders of it by legislation; and the present time, when disloyalists swarm at every poll in large districts of country, near the rebel lines, would seem to be most unpropitious for such an innovation. The committee believe that no such restraint should be placed upon this tutelary authority of commanders at all; because, though liable to possible abuse, we are persuaded that the evil which might accidentally grow out of it would be, as it undoubtedly has been, as nothing compared with the good that flows from its exercise.



So far as the committee have been able to ascertain, the evil which the bill is intended to remedy, is almost wholly imaginary; and the fact that there is so little real ground for complaint against the military, considering the scenes of excitement and disorder in which they have been compelled to interpose, speaks loudly in praise of their justice and forbearance, and is high evidence of the impropriety of passing the bill.

The committee would hardly do justice to the subject should they omit to lay before the Senate a sketch of such proceedings as have come to their knowledge in the use of this conservative power of our commanders, so far as relates to elections in the border States.

The Secretary of War, in answer to a resolution of the Senate of the 26th of January last, transmits to us a note from the Adjutant-General, from which it appears that no orders have issued from the War Department to military commanders in the States of Kentucky, Missouri, Maryland, and Delaware.—(Ex. Doc. 14, of the present session.)

The earliest step taken to preserve elections from the contamination of disloyal votes seems to have been taken by the Missouri convention, which deposed the rebel governor of that State. On the 12th of June, 1862, they adopted an ordinance which expressly excluded from the polls all persons who had, since the 17th of December, 1861, wilfully taken up arms or levied war against the United States or against the provisional government of the State of Missouri. The following is a copy of this wise and salutary ordinance:—

*“Be it ordained by the people of the State of Missouri in convention assembled as follows:*

“SECTION 1. No person shall vote at any election to be hereafter held in this State, under or in pursuance of the Constitution and laws thereof, whether State, county, township, or municipal, who shall not, in addition to possessing the qualifications already prescribed for electors, previously take an oath in form as follows, namely: ‘I, ———, do solemnly swear (or affirm, as the case may be) that I will support, protect, and defend the Constitution of the United States and the Constitution of the State of Missouri against all enemies and opposers whether domestic or foreign; that I will bear true faith, loyalty, and allegiance to the United States, and will not, directly or indirectly, give aid and comfort, or countenance, to the enemies or opposers thereof, or of the provisional government of the State of Missouri, any ordinance, law, or resolution of any State convention or legislature, or of any order or organization, secret, or otherwise, to the contrary notwithstanding; and that I do this with a full and honest determination, pledge, and purpose, faithfully to keep and perform the same, without any mental reservation or evasion whatever. And I do further solemnly swear (or affirm) that I have not, since the 17th day of December, A.D. 1861, wilfully taken up arms or levied war against the United States, or against the provisional government of the State of Missouri: So help me God.’”

General Schofield, in command of the military district of Missouri, did not hesitate to issue his order declaring that he should deal with any judge of an election as for a military offence who should admit persons to vote who were excluded by that ordinance; and he also declared obnoxious to the like punishment any person who had borne arms against the United States, or given aid and comfort to their enemies during the rebellion, and who should presume to act as judge or clerk of the then coming November election. The statutes of the State gave him no right to do this, and his justification can only be found in the duty he owed to his country as a military commander to prevent her enemies from obtaining an advantage, and for that reason the order was plainly legal and necessary. None but disloyal men have complained of it, because none but such could. The following is so much of his order, (No. 120,) dated October 20, 1863, as is necessary to illustrate the principle:

GENERAL ORDER, }  
No. 120. }

Judges of elections of the various precincts in Missouri are notified that they will be held responsible that, at the election on the 3d of November next, those persons, and only those, be permitted to vote who are entitled to do so by the laws of the State; and especially that the ordinance of the State convention, adopted June 10, 1862, and published herewith, be enforced in every case.

It is the duty of the judges of election at each precinct in the State to see that every person qualified by the constitution and laws of the State shall be permitted to exercise the elective franchise without let or hinderance; and it is equally their duty to see that those who are not qualified under the constitution and laws, or who refuse to qualify according to the terms of the annexed ordinance, shall not be allowed to vote; and any action on their part excluding qualified voters from the polls, *or admitting those who are not qualified as stated, will be punished as a military offence.*

Any person who has borne arms against the government of the United States, or voluntarily given aid and comfort to its enemies during the present rebellion, and who shall presume to act as judge or clerk at said election, and any county judge who shall knowingly appoint any such person as above described to act as judge at said election, will be deemed guilty of violation of military orders, and, upon conviction thereof, will be punished accordingly.

In those parts of the State where there is danger of interference by guerilla bands, or by combinations of persons intended to overawe or intimidate legal voters, district commanders will so dispose their troops as will most certainly prevent such interference.

Who can doubt that, without this order and the enforcement of it by the presence of armed troops, the elections in that distracted State would have presented scenes of violence, fraud, and bloodshed, that would have added tenfold fury to the flames of civil and social war, under which she was apparently consuming? And who can feel assured that Missouri would not to-day have been effectually an ally of the rebels?

A similar order was issued by General Burnside, in Kentucky, on the eve of the election held in that State on the 3d of August, 1863. It is as follows:

HEADQUARTERS DEPARTMENT OF THE OHIO,  
Cincinnati, Ohio, July 31, 1863.

GENERAL ORDERS, }  
No. 120. }

Whereas the State of Kentucky is invaded by a rebel force with the avowed intention of overawing the judges of elections, of intimidating the loyal voters, keeping them from the polls, and forcing the election of disloyal candidates at the election on the 3d of August; and whereas the military power of the government is the only force that can defeat this attempt, the State of Kentucky is hereby declared under martial law, and all military officers are commanded to aid the constituted authorities of the State in support of the laws and of the purity of suffrage as defined in the late proclamation of his excellency Governor Robinson.

As it is not the intention of the commanding general to interfere with the proper expression of public opinion, all discretion in the conduct of the election will be, as usual, in the hands of the legally appointed judges at the polls, *who will be held strictly responsible that no disloyal person be allowed to vote, and to this end the military power is ordered to give them its utmost support.*

The civil authority, civil courts, and business, will not be suspended by this order. It is for the purpose only of protecting, if necessary, the rights of loyal citizens and the freedom of election.

By command of Major-General Burnside.

LEWIS RICHMOND,  
Assistant Adjutant-General.



It will be noticed that General Burnside, too, makes it a military offence for the judges to allow any disloyal person to vote; basing his order, clearly, upon the principle that an enemy of the country has no political rights, and is not to be treated for any purpose as a friend, while in our midst. The right to baffle public hostility in every form in which it may present itself must not be denied to the government. As well may you deny to the man who is attacked by an assassin the right of using all the faculties God has given him to disarm and destroy him. When the struggle is for existence, no law can define the means by which it shall be defended.

The Senate have referred to this committee, on the motion of an honorable senator from Kentucky, a printed address, in pamphlet form, entitled "*An address to the people and Congress of the United States*," for our consideration. This paper is signed by seven gentlemen, who style themselves a "committee on behalf of the Democratic party." Their names are, W. A. Dudley, Nat. Wolfe, R. K. White, J. H. Harney, W. F. Bullock, J. F. Bullitt, and R. C. Palmer.

Had not the Senate seen fit to refer the paper to the committee, they would have doubted the propriety of giving to a document so manifestly and bitterly partisan in its character—so evidently hostile to the great cause in which loyal men are freely shedding their blood, the importance implied by the reference, and would have preferred to leave it to sink into that oblivion which awaits all such endeavors to embarrass the prosecution of the war and the overthrow of the rebels. But we must, as required, take becoming notice of the pamphlet, which we have carefully perused.

It narrates with an air of sorrow the fact that in August, 1862, Governor *Magoffin*, of Kentucky, resigned his executive trust, "for the purpose of relieving the people, and especially that portion of them *known as southern-rights men, who had been peculiar objects of persecution*." It will be remembered that Governor Magoffin, when called upon by the President in 1861 for volunteers to defend the national capital, rejected the request, and in terms not only insulting but redolent of defiance and treason, refused all aid to the national cause. That the resignation of such a functionary was in fact a "relief" to all loyal and well-disposed people is evident enough; but that the authors of the pamphlet should make it ground of complaint that the party in Kentucky known as "southern-rights men," (that is, men favoring the pretended right of the rebel States to secede and make war upon the government,) had been the "peculiar objects of *persecution*," indicates so strong a sympathy with them as to convince every one that the great object of the authors is anything but the success of the war; anything but an earnest opposition to the plotters whom they commiserate.

They state that, by a previous understanding with Magoffin, Mr. Robinson became the governor. They admit that early in September, 1862, the State was invaded by rebel troops, "who for six weeks held possession of the greater portion of its territory;" and aver that the people gave them "*little encouragement and few recruits*, so that by the first of November they were driven from the Kentucky borders."

That there were vast numbers of traitors in Kentucky is evidenced not only by this admission of the authors that the invaders got some encouragement and some recruits during their occupancy of the State, but by the fact that, like the Missouri convention, the legislature had found it necessary to prohibit from voting and to proscribe and expatriate all persons who had entered or should enter the rebel service in any military or civil capacity, or who should voluntarily give aid and assistance to the rebel forces. The number of these traitors was, it is reasonable to suppose, greatly augmented by the open establishment in Kentucky of a "provisional government" in aid of the rebellion. The following is a copy of the act of expatriation to which we refer, appended to the address. It was

passed when Magoffin was governor; and the fact that he *refused* to approve it, and that it became a law in spite of his veto, throws a very clear light upon the nature of the complaint contained in the pamphlet, that the "southern-rights men" had been peculiar objects of persecution, the true interpretation of which would seem to be that it is tyrannical to drive out traitors or to exclude them from the polls. The loyalty which satisfies itself with this is plainly not to be trusted, and no military commander would be doing his duty who did not hold it under the strictest watch and use prompt means to defeat its machinations. It is essentially disloyal, because it makes no practical distinction between open treason and open fidelity to the government in time of war.

AN ACT to amend Chapter 15 of the Revised Statutes, entitled "Citizens, expatriation, and aliens."

SECTION 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That any citizen of this State who shall enter into the service of the so-called Confederate States, in either a civil or military capacity, or enter into the service of the so-called provisional government of Kentucky in either a civil or military capacity, or, having heretofore entered such service of either the Confederate States or provisional government, shall continue in such service after this act takes effect, or shall take up or continue in arms against the military forces of the United States or the State of Kentucky, or shall give voluntary aid and assistance to those in arms against said forces, shall be deemed to have expatriated himself, and shall no longer be a citizen of Kentucky, nor shall he again be a citizen, except by permission of the legislature by a general or special statute.

SEC. 2. That whenever a person attempts or is called on to exercise any of the constitutional or legal rights and privileges belonging only to citizens of Kentucky, he may be required to negative on oath the expatriation provided in the first section of this act, and upon his failure or refusal to do so, shall not be permitted to exercise any such right or privilege.

SEC. 3. This act to be of force in thirty days from and after its passage.

Passed and became a law, the objections of the governor to the contrary notwithstanding, March 11, 1863.

In order to carry into effect this salutary and patriotic act, Governor Robinson, just before the August election, issued the following proclamation:

COMMONWEALTH OF KENTUCKY,  
*Executive Department.*

For the information and guidance of all officers at the approaching election, I have caused to be herewith published an act of the legislature of Kentucky, entitled "An act to amend Chapter 15 of the Revised Statutes, entitled 'Citizens, expatriation, and aliens.'" The strict observance and enforcement of this and all other laws of this State regulating elections are earnestly enjoined and required as being alike due to a faithful discharge of duty to the purity of the elective franchise, and to the sovereign will of the people of Kentucky expressed through their legislature.

Given under my hand, as governor of Kentucky, at Frankfort, this 10th day of July, 1863, and in the seventy-second year of the commonwealth.

J. F. ROBINSON.

By the governor:

D. C. WICKLIFFE,  
*Secretary of State.*



Considering the disturbed state of things in Kentucky, and the manifest danger of rebel interference with the elections in numerous preeinets, it is difficult to see any objection to the issuing of this proclamation. It was plainly necessary in order to call the immediate and earnest attention to the judges of election as well as the people to its important provisions, which had been in force but three months. Yet the authors of the pamphlet take occasion to denounce it, and to intimate that the real object of it was to exelude their friends from the polls, which may be admitted if they regarded rebels as such, for it affected nobody else.

Deeming it necessary to place the State under martial law, General Burnside, on the 31st, issued his proclamation to that effect, set forth above.

It ought to be stated, however, that in the preeeding June the authors, with many others, agreeing, as they say, in approving, with some exceptions, the resolutions of the "*Union Democratic Convention*," held on the 18th of Mareh, and which had nominated Mr. Bramlette, but "distrusting the sineerity of the men by whom those resolutions had been adopted," addressed a letter to honorable Charles A. Wickliffe, "which, they assure us, fully explains our purpose and our policy," and in which they add Mr. Wickliffe "expressed his hearty concurrence." The letter is as follows :

LOUISVILLE, *June 13, 1863.*

DEAR SIR: The undersigned, in behalf of many in all parts of this Commonwealth, believe it a politieal necessity to reorganize the demoeratic party in the State, in association with those of the North who have stood by the government and the Constitution throughout this deplorable civil war. They constitute the only political party of the North with whom any party South will have any affiliation, whilst a politieal association between the two sections of the country is indispensable to a restoration of the Union.

We cannot consent to the doctrine that the Constitution and laws are inadequate to the present emergency—that the constitutional guarantees of liberty and property can be suspended by war.

Our fathers certainly did not intend that our Constitution should be a fair-weather document, to be laid away in a storm, or a faney garment to be worn only in dry weather. On the contrary, it is in times like the present that constitutional restraints on the power of those in authority are needed.

We hold the federal government one of limited powers, that cannot be enlarged by the existence of civil commotion. We hold the rights reserved to the States equally saered with those granted to the United States. *The government has no more right to disregard the Constitution and laws of the States, than the States have to disregard the Constitution and laws of the United States.*

We hold that the administration has committed grave errors in confiscation bills, lawless proclamations, and military orders, *setting aside constitution and laws*, and making arrests outside of military lines where there is no public danger to excuse it.

It is now obvious that the fixed purpose of the administration is to arm the negroes of the South *to make war upon the whites, and we hold it to be the duty of the people of Kentucky to enter against such a policy a solemn and most emphatic protest.*

We hold as saered and inalienable the right of free speech and a free press; that the government belongs to the people, and not the people to the government.

We hold this rebellion utterly unjustifiable *in its inception*, and a dissolution of the Union the greatest of calamities.

We would use all just and constitutional means adapted to the suppression of the one and the restoration of the other.

Having observed your uniform and consistent course since the origin of our troubles, we believe you a faithful representative of our views, and urgently request that you permit your name to be used as a democratic candidate for governor at the ensuing election.

Yours, respectfully,

W. F. Bullock.  
Robert Cochran.  
L. S. Trimble.  
Thos. P. Hughes.  
R. C. Palmer.  
Alfred Herr.  
J. P. Chambers.  
Wm. K. Thomas.  
Wm. G. Reasor.  
Robt. K. White.  
J. H. Harney.  
Wm. Kaye.  
N. Wolfe.  
S. M. Hall.  
John Herr.  
Chas. L. Harrison.

Joshua F. Bullitt.  
Geo. W. Johnston.  
Robt. M. Smith.  
T. J. Conn.  
W. A. Dudley.  
W. P. Simmons.  
John T. Bridges.  
T. J. Hall.  
Samuel N. Hall.  
Philip Tomppert, jr.  
Jesse F. Hammon,  
P. M. Campion.  
W. H. Bailey.  
Jacob Abuy.  
J. H. Price.

Hon. C. A. WICKLIFFE.

On the 17th of July, nearly a year before the date of this letter, Congress had authorized the President "to employ as many persons of African descent as he might deem necessary and proper for the suppression of the rebellion, and for this purpose to organize and use them in such manner as he might judge best for the public welfare." This letter seeks to make a direct issue between the government of the United States and the people of Kentucky on this question, holding it to be the duty of the people of Kentucky to enter against this policy "their most solemn and emphatic protest," and denouncing it as a scheme to "arm the negroes of the South to make war upon the whites;" meaning, of course, the whites of the South, or rebels; and to give this protest the indubitable character and force of a menace against the United States, they say, "the government (of the United States) has no more right to disregard the constitutions and laws of the States, than the States have to disregard the Constitution and laws of the United States." If this be so, who is to judge between them? Plainly no one but the parties to the dispute are, each for itself, the final judges. This is the precise doctrine of the nullifiers of 1832 and the very essence of secession. It denies all rightful authority in the government to put down a rebellion when the government *de facto* of a State has armed itself against the authority of the United States. And this monstrous principle, adopted directly from the rebel school, these patriotic writers dignify as "conservative." It is not easy to imagine a more wretched abuse of the term.

The writers, though pretending to hold the rebellion "utterly unjustifiable in its inception," leave a strong implication that it had become not unjustifiable, and seem to regard the employment of negro troops to "make war upon the whites" in the rebel States as changing its original character from unjustifiable to the contrary. And such they and their candidate undoubtedly regarded it, and had in contemplation to take measures of violence to resist it. At this time the recruiting of black troops, under the act of 1862, was in active progress in Kentucky, Tennessee, and other slaveholding districts; the State swarmed with rebel spies, as well as persons openly advocating and encouraging the rebellion; the rebel slaveholders all over the State were continually visiting the federal camps for the twofold purpose of hunting their forfeited slaves and practicing



their spycraft, thus keeping up a turmoil among the troops, producing frequent acts of insubordination, weakening discipline, and striving to defeat the act of Congress against the surrender of fugitive slaves by military persons.

Under such a state of things, we are of opinion that the safety of the State and the success of our arms imperatively demanded that the State should be placed under martial law, and that if the general in command was guilty of any fault, it was for delaying that salutary measure too long.

The authors of the address, with commendable truthfulness, say: "It is very frankly admitted that we hoped and expected to obtain the support of the great mass of the southern rights men of the State. They were for the most part, democrats of long standing. Though classed by the adherents of the administration as 'disloyal,' the great *majority of them* were not secessionists, and were entirely free from all complicity in the rebellion. So far from esteeming it a fault of which we should be ashamed, we regarded the effort to conciliate them, if it could be done without a sacrifice of principle on either side, as highly meritorious; and we now gratefully acknowledge the cordial support which that portion of our fellow-citizens were ready and anxious to yield to our platform and candidate whenever permitted to do so."

This is an express avowal of the purpose of the writers, and of Mr. Wickliffe, their candidate, to obtain the votes, not only of loyal democrats, but of persons who were open rebels, however numerous they might be. No one can deny this, and no one can deny that such a purpose was directly in the teeth not only of General Burnside's proclamation establishing martial law, but of the statute of Kentucky of March 11. It invited open enemies whose hands were red with the blood of the defenders of the government, and who were loaded with the spoils of plundered loyalists, to come to the polls and participate in the election of the officers of a loyal State! There is but one step, and that a short one, between this invitation and openly embracing the rebel cause. Every man sees this; and the loud protestation of such parties of their "loyalty" only serves to make their purposes more transparent, their hypocrisy more glaring.

One great object announced in the general's proclamation, and one which he was bound by every sentiment of patriotic duty to carry out, was to prevent any disloyal person from voting at the polls. He regarded them, very properly, as *enemies*, not entitled to and not to be allowed the privileges of citizens. He was not bound to inquire whether, under the laws of Kentucky, such persons were admitted or excluded from the polls; they were, as enemies, amenable to the military authority of the United States, and whoever aided, encouraged or harbored them, while within the limits of our military occupation, was punishable by the law of war. It was upon this obvious principle of the law of war that the general's prohibition of the disloyalists to vote, and the judges of election to receive their votes, is founded. It must be borne in mind that the State was under *martial law*—a law which is the undoubted right of every commander in the field to declare and enforce whenever, in his judgment, the state of things within the limits of his command requires it. It is strictly constitutional, because the Constitution allows war to be carried on, and the establishment of martial law is one of the usual instrumentalities of carrying it on, and is often absolutely indispensable to the safety of the army and the success of the cause. Its effect is, if the general so wills, to suspend the functions of all civil magistrates, and all the ordinary transactions of society, placing everybody and everything, for the time being, at the disposal of the commanding general. It is the law of necessity, the necessity of existence—the supreme necessity of society. It is, of course, modified by the commander according to the degree of necessity, and ceases when necessity ceases. But while in force it is *law*, and punishes disobedience like any other law.

That the state of things in Kentucky, or elsewhere in the United States, should have required a proclamation of martial law is certainly to be deplored



But neither the government nor General Burnside, nor any loyal citizen of Kentucky, was, or is, chargeable with producing it. It was the bitter fruit of treason, rebellion and civil war, crimes which must be met with force and a manly vigor worthy of the cause at stake.

If, then, the proclamation was rightful in itself, carrying with it the force of law, as we hold it to have been, and if it was lawful to exclude a disloyal person from voting, it was assuredly not the less lawful to prevent a disloyal person from placing his name upon the poll-books of the election as a candidate; and the complaint of the authors of the pamphlet, that Mr. Wickliffe's name was at several of the places of election struck from those books by order of the military, is without any legal foundation. He was regarded by them as a disloyal person, at least as one whose conduct and declarations rendered him an object of just suspicion as being in the interest of the enemy, and dangerous to the United States; and the committee, from the general tone and character of the address itself, see no reason to dissent from their opinion. The naked fact of his soliciting the votes of avowed rebels and secessionists, in defiance even of highly penal laws of his own State, and in contempt of the military order prohibiting the judges of election to receive them—a fact admitted by the pamphlet—would if there were no other proof, be sufficient, in our opinion, to subject him to the treatment he received. The leader of a party who, like the pamphleteers, censure their government at such a moment as this for keeping from the polls its open enemies, and who embody this charge as a principal ingredient in the grand climax of angry and false accusation, that “the very devotion of Kentucky to the Constitution has been the means whereby to deprive her people of every constitutional right,” has little ground to complain when he is shoved aside by the iron hand of that military power which is smiting down those same enemies by his side.

It is enough to say that, notwithstanding the manifest party exaggerations and distortions of fact of this pamphlet, it does not allege that any loyal man who offered to vote for a loyal candidate was excluded or in any way molested by the military authorities. The orders of the subordinate commanders were, so far as they are embodied in the pamphlet, and so far as we have been able to ascertain, in strict accordance with General Burnside's order and the statute of the State, which we have cited; and the pamphlet admits that these orders “were carried out with rare fidelity by those to whom their execution was intrusted.” Possibly wrong may have been done to individual voters or candidates; but if so, the authors of the pamphlet have failed to point them out, or to direct attention to that quarter where the proofs may be obtained; and we dismiss the subject referred to us with the remark, that if Kentucky politicians will cease all party alliance with rebels, there will be no need for martial law in that commonwealth.

We come next to the State of Maryland. Governor Bradford, in his message to the legislature of that State, of January last, devotes much attention to the subject, which, he observes, “for some time past, has greatly agitated and alarmed the people of the counties of the State, and caused many complaints and appeals to me for interposition by some of the best and most faithful of our citizens.” We append so much of his message as relates to this subject in an accompanying paper, marked B, in order that his views and statements of fact may be seen in connexion with our own remarks upon them.

The recent Maryland election is a fruitful topic of complaint. The governor and one of her senators unite in denouncing it. The former, in his message, informs the legislature that “a part of the army which a generous people supplied for a very different purpose, was on that day employed in stifling the freedom of election in a faithful State, intimidating its sworn officers, violating the constitutional rights of its loyal citizens, and obstructing the usual channels of communication between them and their executive.” And a senator of Maryland has



indulged in expressions which nothing but the most flagrant invasions of the elective franchise can excuse.

But the weight of these imputations is seriously diminished by two considerations : both gentlemen owe their positions to an election conducted under the same auspices ; both gentlemen are now on the losing side of the election which they impeach ; and the country has not forgotten that it is the bad habit of the defeated partisans of the slavery interest to blacken the opponents whom they fail to defeat.

For years the country was taught to believe that the elections in Baltimore unfavorable to their partisans were carried by the intrusion of thousands of fraudulent votes and the exclusion by bloody violence of thousands of voters. In an evil day they ventured to contest an election on those allegations ; and the committee reported that only twenty-five illegal votes were cast, and only fifty-seven persons were excluded from the polls.

A critical examination of the conduct and influence of the military authorities at the recent election will sufficiently show that the arts of exaggeration have not deteriorated under the auspices of the present representatives of the slavery interest. Their clamor is that of disappointed partisans, not the outcry of the oppressed.

The circumstances of the contest narrow the inquiry to a single congressional district.

In four of the five districts there is no pretence of military interference.

In three of the districts, now represented by Messrs. Thomas, Davis, and Webster, there were no opposing candidates.

In the fifth district an avowed secessionist was elected, and the governor makes no complaint of military interference with his election.

In the *first* district the pro-slavery candidate was defeated ; and from that district alone is any complaint heard.

The governor and those who were defeated with him complain of the military order, No. 53, and of the manner of its execution. We append the order and the modification of it by the President of the United States, marked C.

The complaint contains its own refutation on both points. If the order was needless in the governor's opinion, that opinion was not, as we know, shared by many of his fellow-citizens ; and some equally associated with its history took a very different view of what the honor and safety of the State required. It is enough to say that Governor Thomas H. Hicks, the predecessor of Governor Bradford, by him appointed to the Senate of the United States, and now just elected by the legislature which sprang from this election, gave the general the following advice :

CAMBRIDGE, *October 26, 1853.*

MY DEAR SIR : Our election is now near at hand, and I see no restriction placed upon the disloyal of our State. It does seem to me that if nothing else is done, there should be a STRINGENT OATH prepared, and the judges *required to exact* it of all doubtful voters, and they refusing shall not vote.

I shall be glad to hear from you as early as possible.

I am, with great respect, your obedient servant,

THOS. H. HICKS

Major-General R. C. SCHENCK, *U. S. A.*

Perhaps that alone ought to silence the voice of criticism. But those who urge the complaint will be more affected by the authority of General McClellan ; and Governor Bradford will, perhaps, appreciate the pertinence of the following order of that general in aid of his own election :

HEADQUARTERS ARMY OF THE POTOMAC,  
Washington, October 29, 1861.

GENERAL: There is an apprehension among Union citizens in many parts of Maryland of an attempt at interference with their rights of suffrage by disunion citizens on the occasion of the election to take place on the 6th of November next.

In order to prevent this, the major-general commanding directs that you send detachments of a sufficient number of men to the different points in your vicinity where the elections are to be held *to protect the Union voters*, and to see that no disunionists are allowed to intimidate them, or in any way to interfere with their rights.

He also desires you to arrest and hold in confinement till after the election all disunionists who are known to have returned from Virginia recently and *who show themselves at the polls*, and to guard effectually against any invasion of the peace and order of the election. For the purpose of carrying out these instructions *you are authorized to suspend the habeas corpus*. General Stone has received similar instructions to these. You will please confer with him as to the particular points that each shall take the control of.

I am, sir, very respectfully, your obedient servant,

R. B. MARCY,  
*Chief of Staff.*

Major-Gen. N. P. BANKS,

*Commanding Division. Muddy Branch, Md.*

The existence of that order had probably escaped the governor's recollection entirely.

It would have been, perhaps, fortunate had the contrast of General Dix and General Schenck been likewise omitted; for it is apparent that the letter of General Dix fully covers the order of General Schenck; and the order of General Dix, whose text the governor has not cited, is more stringent than that of his successor in command. We supply the omission.

HEADQUARTERS, Baltimore, November 1, 1861.

*To the United States Marshal of Maryland, and the Provost Marshal of the City of Baltimore:*

Information has come to my knowledge that certain individuals who formerly resided in this State, and are known to have been recently in Virginia bearing arms against the authority and the forces of the United States, have returned to their former homes with the intention of taking part in the election of the 6th of November instant, thus carrying out at the polls the treason they have committed in the field. There is reason also to believe that other individuals lately residents of Maryland, who have been engaged in similar acts of hostility to the United States, or in actively aiding and abetting those in arms against the United States, are about to participate in the election for the same treacherous purpose, with the hope of carrying over the State by disloyal votes to the cause of rebellion and treason. I, therefore, by virtue of the authority vested in me to arrest all persons in rebellion against the United States, require you to take into custody all such persons in any of the election districts or precincts in which they may appear at the polls to effect their criminal attempt to convert the elective franchise into an engine for the subversion of the government, and for the encouragement and support of its enemies.

In furtherance of this object, I request the judges of election of the several precincts of the State, in case any such person shall present himself and offer his



vote, to commit him until he can be taken into custody by the authority of the United States : and I call on all good and loyal citizens to support the judges of election, the United States marshal and his deputies, and the provost-marshal of Baltimore and police, in their efforts to secure a free and fair expression of the voice of the people of Maryland, and at the same time to prevent the ballot-box from being polluted by treasonable votes.

JOHN A. DIX,  
*Major-General Commanding.*

And the letter of General Dix to the judge of election in Carroll county, published by the governor with his message, is so singularly in accordance with the order of General Schenck that we cannot refrain from incorporating it. That it should be invoked to condemn the order at the late election is a striking illustration of the blindness which presides over these attacks.

HEADQUARTERS DEPARTMENT OF PENNSYLVANIA,  
*Baltimore, Md., November 1, 1861.*

GENTLEMEN : I have received your letter of the 29th ultimo; asking me to issue a proclamation authorizing you to administer to all persons of doubtful loyalty, who offer their votes at the approaching election, an oath to support the Constitution of the United States. If I had the power I would most cheerfully do so, for no one who is false to the government ought to be allowed to vote. But the constitution and laws of Maryland provide for the exercise of the elective franchise by regulations with which I have no right to interfere. I have this day issued an order, of which I enclose a copy, to the United States marshal and the provost-marshal of Baltimore to arrest any persons who have been in arms in Virginia if they appear at the polls and attempt to vote, as we are told some such persons intend, and to take into custody all who aid and abet them in their treasonable designs ; and I have requested the judges of election, in case any such person presents himself at the polls and attempts to vote, to commit him until he can be taken into custody by the authority of the United States.

I consider it of the utmost importance that the election should be a fair one, and that there should be no obstruction to the free and full expression of the voice of the people of the State, believing, as I do, that it will be decidedly in favor of the Union. But it is in the power of the judges of election under the authority given them, to satisfy themselves as to the qualifications of the voters, to put to those who offer to poll such searching questions in regard to residence and citizenship as to detect traitors, and without any violation to the constitution or laws of Maryland, to prevent the pollution of the ballot-boxes by their votes.

I am, very respectfully, yours,

JOHN A. DIX,  
*Major-General Commanding.*

DANIEL ENGEL and WILLIAM ECKER,  
*Inspectors of Election, New Windsor.*

Of these orders and this letter, intended to protect the polls of 1861, we have never heard a word of complaint ; for at that election Governor Bradford was chosen to his exalted office, and the senator of Maryland who impeaches the late election was elected to the house of delegates of Maryland, and the legislature of which he was a member, and which elevated him to the Senate of the United States, was chosen.

If the order of General Schenck was illegal, it is quite apparent it was in the line of precedents of the most conservative gentlemen, and complaints of General

Schenck come with a bad grace from gentlemen who profited, in silence, by the orders of General McClellan and General Dix.

It would seem that those who have criticised the order have not taken the pains to read it, or have been so blinded by passion as to have been unable to understand or fairly to represent it.

It is quite certain it does not place "the polls under the surveillance and at the command of the military authority." It is not open to any such imputation. It contains no requirement that any loyal man would refuse. It does not even require the party questioned to deny he has been a rebel in arms against the United States, but, very improperly we think, permits him to vote on swearing to be loyal in the future.

It is not true that "the military, aided by the provost-marshals, were to arrest voters whom they might consider disloyal approaching or hanging about the polls."

It is not true that "a prescribed form of oath was furnished, without taking which no one if challenged could vote."

The order carefully abstains from giving the military officers any discretion respecting the persons they are ordered to arrest. They are not authorized to arrest any one merely because he is disloyal; the taking of any oath is not made a condition precedent to voting, and no one is authorized to exact any oath of any voter.

It directs the arrest only of two classes of persons: 1st, those who have been engaged in rebellion against the lawful government, or have given aid and comfort or encouragement to others so engaged; or 2d, those who do not recognize their allegiance to the United States.

Those words describe, in definite legal language, acts of rebellion which bring the perpetrators within the legal powers of military suppression, conferred by law on the President: to engage in rebellion, to give aid, or comfort, or encouragement to those so engaged, are acts of war, as well as punishable offences; and the President is engaged in putting down that rebellion. He is daily engaged in arresting persons of the classes described in Maryland, and it would not now be a topic of complaint had not the partisans of slavery needed their votes.

But if the right by law to arrest them be admitted, it is absurd to make a place of voting a sanctuary for traitors. It is absurd to say that the United States cannot arrest them anywhere, at any time; and to apply the law of Maryland, forbidding an officer to march his soldiers in view of any poll, to the troops of the United States, is the assertion of the right of a State to direct the march and encampment of their army in time of war; a result totally inconsistent with supreme authority of the Constitution of the United States. The committee append a copy of the Maryland act of 1860 on this subject, marked D. It needs no argument to show that such State prohibitions have no application to troops of the United States. It is quite natural that an attempt to secure the votes of traitors should be maintained by arguments involving the right of secession!

Of course, no one will pretend that men who do not acknowledge their allegiance to the United States can have anything to do with an election in Maryland, or any other State, by law. No one can complain who himself declares he is not a citizen, but an enemy, if he is repelled from meddling in an election, and the order includes none but those who *avow their status*.

There is no class of persons described as "disloyal;" no inquiry into political views or opinions or sympathies is permitted; definite acts and avowals are the only criterion, and those acts and avowals place the person within the legal authority of military arrest.

The next clause of the order has been misconstrued with equal inattention.

It directs the military officers and provost marshals to *support the judges of*



*election* in requiring an oath of allegiance to the United States as a test of citizenship, and a form of oath is appended to inform them what sort of an oath they are authorized to support the judges in requiring.

The form of oath was prudently and wisely added to limit the military discretion and to prevent the officers from aiding any judge in requiring capricious, impertinent or irrelevant oaths, which might have been used to exclude loyal citizens on personal or party grounds.

The order does not authorize the officer to challenge any voter, nor to require any oath of the voter, nor to insist that the judge should administer any.

It does not direct or order, or even request any judge of election to administer any oath of allegiance.

It assumes the right of the judge to sift the conscience of the voter, to ascertain his citizenship; and that from a refusal to acknowledge allegiance, and promise to act accordingly, the judge might, in law, infer the person refusing not to be a citizen, and on that ground to refuse his vote.

It is impossible to impeach the correctness of this; citizenship is matter of evidence, and the disavowal of the voter is the best evidence. The order assumes that the judges might so think.

It assumed also that the resolution to apply this test might lead to violent opposition from the enemies of the government, and that the judges might be intimidated into declining to purify the ballot-box of traitors' votes.

The order, therefore, placed a military force at the disposal of the judges, and under *their orders*, to protect them, if they should see fit to insist on the oath of allegiance as a test of citizenship.

The judges are by law the conservators of the peace at the polls; they can command what assistance they please, and it is unreasonable to complain of their preferring to use the volunteers of the United States instead of the *posse comitatus*, who would not have obeyed them in many places.

Of course, such an order as this was fatal to any scheme of party tactics, which looked for success by a coalition of the pro-slavery Union men with the mass of the avowed secessionists, who, we are credibly informed, form a large proportion of the people in the eastern shore counties of the 1st district—but not a majority—and who have been openly and actively engaged in the rebellion, or in giving aid and comfort to those so engaged; many of them have been actually in arms, and many more actually and notoriously engaged in sending supplies, or forwarding recruits to the rebels.

Such men the loyal people of Maryland will not tolerate at the polls; and few but traitors will complain of the administration of the law which excludes them.

The order to report the names of judges who refused to administer the oath was no menace, and cannot be so construed. It was a piece of information which it was important for the government to have; for it might give some useful information respecting the views and disposition of prominent and influential men in the counties; an essential element in dealing with such a rebellion.

There was no order to arrest them, nor any hint of such a purpose. But the refusal was a fact which the government had a right to know, and it ordered it to be reported.

The governor of Maryland complained of this order to the President, who modified its first clause, so as to strip it of its vigor without conciliating the acquiescence of the governor. For the order to arrest traitors the President substituted the following words:

I. That all provost marshals and other military officers do prevent all disturbance and violence at or about the polls, whether offered by such persons as above described, or by any other person or persons whomsoever.

It simply converts the military into a police for the polls.

His letter in reply to Governor Bradford is a full answer to his complaint, and we incorporate the correspondence to complete this singular history.

WAR DEPARTMENT,

*Washington, November 2, 1863.*

SIR : Yours of the 31st ultimo was received yesterday about noon, and since then I have been giving most earnest attention to the subject-matter of it. At my call General Schenck has attended, and he assures me it is almost certain that violence will be used at some of the voting places on election day, unless prevented by his provost guards. He says that at some of those places the Union voters will not attend at all, or run a ticket, unless they have some assurance of protection. This makes the Missouri case of my action, in regard to which you express your approval.

The remaining point of your letter is a protest against any person offering to vote being put to any test not found in the laws of Maryland. This brings us to a difference between Missouri and Maryland. With the same reason in both States, Missouri has, by law, provided a test for the voter with reference to the present rebellion, while Maryland has not. For example, General Trimble, captured fighting us at Gettysburg, is, without recanting his treason, a legal voter by the laws of Maryland. Even General Schenck's order admits him to vote, if he recants upon oath. I think that is cheap enough. My order in Missouri, which you approve, and General Schenck's order here, reach precisely the same end. Each assures the right of voting to all loyal men, and whether a man is loyal, each allows that man to fix by his own oath. Your suggestion that nearly all the candidates are loyal I do not think quite meets the case. In this struggle for the nation's life, I cannot so confidently rely on those whose election may have depended upon disloyal votes. Such men, when elected, may prove true, but such votes are given them in the expectation that they will prove false. Nor do I think that to keep the peace at the polls, and to prevent the persistently disloyal from voting, constitutes just cause of offence to Maryland; I think she has her own example for it. If I mistake not, it is precisely what General Dix did when your excellency was elected governor. I revoke the first of the three propositions in General Schenck's General Order No. 53, not that it is wrong in principle, but because the military being, of necessity, exclusive judges as to who shall be arrested, the provision is liable to abuse. For the revoked part I substitute the following :

That all provost marshals and other military officers do prevent all disturbance and violence at or about the polls, whether offered by such persons as above described, or by any other person or persons whatsoever.

The other two propositions of the order I allow to stand. General Schenck is fully determined, and has my strict order besides, that all loyal men may vote, and vote for whom they please.

Your obedient servant,

A. LINCOLN,

*President of the United States.*

His Excellency A. W. BRADFORD,

*Governor of Maryland.*



The governor thought fit to publish a proclamation assailing the order (No. 53) for illegality and usurpation, of which the following is a copy :

*Governor's proclamation on subject of late election, embodying copy of General Schenck's order No. 53.*

STATE OF MARYLAND.

EXECUTIVE DEPARTMENT, ANNAPOLIS,  
November 2, 1863.

PROCLAMATION BY THE GOVERNOR.

*To the citizens of the State, and more especially the judges of election :*

A military order, issued from the headquarters of the "middle department," bearing date the 27th ult., printed and circulated, as it is said, through the State, though never yet published here, and designed to operate on the approaching election, has just been brought to my attention, and is of such a character and issued under such circumstances as to demand notice at my hands.

This order reciting, "that there are many evil disposed persons now at large in the State of Maryland, who have been engaged in rebellion against the lawful government, or have given aid and comfort, or encouragement to others so engaged, or who do not recognize their allegiance to the United States, and who may avail themselves of the indulgence of the authority which tolerates their presence, to embarrass the approaching election, or through it to foist enemies of the United States into power," proceeds, among other things, to direct "all provost marshals and other military officers, to arrest all such persons found at or hanging about, or approaching any poll or place of election, on the 4th of November, 1863, and report such arrest to these headquarters."

This extraordinary order has not only been issued without any notice to, or consultation with the constituted authorities of the State, but at a time and under circumstances when the condition of the State, and the character of the candidates are such as to preclude the idea that the result of that election can in any way endanger either the safety of the government, or the peace of the community.

It is a well known fact that, with perhaps one single exception, there is not a congressional candidate in the State whose loyalty is even of a questionable character, and in not a county of the State outside of the same congressional district is there, I believe, a candidate for the legislature or any State office, whose loyalty is not equally undoubted. In the face of this well known condition of things, the several classes of persons above enumerated are not only to be arrested *at but "approaching any poll or place of election."* And who is to judge whether voters thus on their way to the place of voting have given "aid, comfort, or encouragement" to persons engaged in the rebellion, or that they "do not recognize their allegiance to the United States," and may avail themselves of their presence at the polls "to foist enemies of the United States into power?" As I have already said, in a very large majority of the counties of the State there are not to be found among the candidates any such "enemies of the United States," but the provost marshals—created for a very different purpose—and the other military officials who are thus ordered to arrest approaching voters are necessarily made by the order the sole and exclusive judges of who fall within the prescribed category: an extent of arbitrary discretion, under any circumstances the most odious, and more especially offensive and dangerous in view of the known fact that two at least of the five provost marshals of the State are themselves candidates for important offices, and sundry of their deputies for others.

This military order, therefore, is not only without justification when looking to the character of the candidates before the people, and rendered still more obnoxious by the means appointed for its execution, but is equally offensive to the



sensibilities of the people themselves and the authorities of the State, looking to the repeated proofs they have furnished of an unalterable devotion to the government. For more than two years past there has never been a time when, if every traitor and every treasonable sympathizer in the State had voted, they could have controlled, whoever might have been their candidates, a single department of the State or jeopardized the success of the general government. No State in the Union has been or is now actuated by more heartfelt or unwavering loyalty than Maryland—a loyalty intensified and purified by the ordeal through which it has passed; and yet looking to what has lately transpired elsewhere and to the terms and character of this military order, one would think that in Maryland and nowhere else is the government endangered by the “many evil disposed persons that are now at large.”

Within less than a month the most important elections have taken place in two of the largest States of the Union; in each of them candidates were before the people, charged by the particular friends of the government with being hostile to its interests, and whose election was deprecated as fraught with the most dangerous consequences to its success. One of the most prominent of these candidates was considered so dangerously inimical to the triumph of the national cause, that he has been for months past banished from the country, and yet hundreds of thousands of voters were allowed to approach the polls, and to attempt “to foist” such men into power, and no provost marshals or other military officers were ordered to arrest them on the way, or, so far as we have ever heard, even test their allegiance by an oath.

With these facts before us, it is difficult to believe that the suggestion that the enemies of the United States may be foisted into power at our coming election, was the consideration that prompted this order; but whatever may have been that motive, I feel it to be my duty to solemnly protest against such an intervention with the privileges of the ballot-box, and so offensive a discrimination against the rights of a loyal State.

I avail myself of the occasion to call to the particular attention of the judges of election the fact that they are on the day of election clothed with all the authority of conservators of the peace, and may summon to their aid any of the executive officers of the county, and the whole power of the county itself to preserve order at the polls and secure the constitutional rights of the voters.

It is also made their “special duty” to give information to the State’s attorney for the county of all infractions of the State laws on the subject of elections, and by these laws it is forbidden to any “commissioned or non-commissioned officers, having command of any soldier or soldiers quartered or posted in any district of any county of the State, to muster or embody any of said troops, or march any recruiting party within the view of any place of election during the time of holding said election.”

I need not, I am sure, remind them of the terms of the oath they are required to take before entering upon their duties, and according to which they swear “to permit all persons to vote who shall offer to poll at the election, &c., who, in *their judgment, shall, according to the directions contained in the constitution and laws, be entitled to poll at the same election*, and not to permit any person to poll at the same election who is not in (their) judgment qualified to vote as aforesaid.”

It is the *judgment of the judges of election* alone, founded upon the provisions of the constitution and laws of the State, that must determine the right to vote of any person offering himself for that purpose. I trust and believe that they will form that judgment, and discharge their duty, as their conscientious convictions of its requirements, under the solemn obligations they assume shall dictate, undeterred by an order to provost marshals to report them to “headquarters.”

Whatever power the State possesses shall be exerted to protect them for any thing done in the proper execution of its laws.



Since writing the above, I have seen a copy of the President's letter to the chairman of the Union State Central Committee, bearing the same date with the order, and evidently showing that the order was unknown to him, that it would not have been approved by him, if he had known it, and that it is therefore all the more reprehensible.

A. W. BRADFORD.

By the Governor :

WM. B. HILL,

*Secretary of State.*

After the above was in print, at three o'clock this afternoon, I received from the President the following despatch :

"I revoke the first of the three propositions in General Schenck's general order No. 53, not that it was wrong in principle, but because the military, being of necessity exclusive judge as to who shall be arrested, the provision is liable to abuse ; for the revoked part I substitute the following :

"That all provost marshals and other military officers do prevent all disturbance and violence at or about the polls, whether offered by such persons as above described, or by any other person or persons whomsoever ; the other two propositions I allow to stand ; my letter at length will reach you to-night.

A. LINCOLN.

Whilst this modification revokes the authority of the provost marshals and military officers to arrest the classes of persons enumerated in the preamble to the order "found at or hanging about, or approaching any poll or place of election," it directs them to prevent all violence or disturbance about the polls, &c.

To meet such disturbances, the judges of election, as I have already stated, are clothed with ample powers, and I had received no previous intimation that there was any reason to apprehend a disturbance of any kind at the polls on the day of election. In the absence of any military display, there would certainly seem to be as little cause for such apprehensions as ever before existed. A preparation by the government by military means, to provide for such a contingency, will be quite as likely to provoke as to subdue such a disposition. Not only so, but the military thus required to prevent violence or disturbance about the polls must necessarily be empowered to arrest the parties they may charge with such disorder, and they are still left in effect "the exclusive judges as to who shall be arrested"—a power they may as readily abuse as any other.

I regret, therefore, that I can perceive no such change in the general principles of the order as to induce me to change the foregoing proclamation.

A. W. BRADFORD.

BALTIMORE, *Monday Evening, November 2, 1863.*

That inflammatory manifesto was issued on the eve of the election, and carried dismay and dissension among the friends of the Union, and delight to its enemies. It falls little short of a declaration of war against the United States troops then in Maryland.

Under its auspices, and the order modified by the President, the secessionists instantly organized in less than twenty-four hours, circulated those documents, with the exhortation to all the enemies of the government to come and take the oath and vote, since nobody was to be arrested ; and under those papers a secessionist was elected in the 5th district against the superior but divided vote of the unionists.

That proclamation was much more liable to the charge of illegality than the order of which it complained.

The law of Maryland charges the governor with no authority over elections, and vests him with no right to instruct the judges of election in the law of their duty.

This proclamation was therefore a palpable usurpation.

It denied the right of the United States to arrest their enemies at or approaching a Maryland poll.

It converted the elective franchise into a sanctuary for traitors.

It promised the judges of election that "*whatever power the State possesses should be exerted to protect them for anything done in the proper execution of its laws,*" and that meant in any resistance to the military order to arrest traitors at the polls.

That is, to stir up sedition and incite persons to oppose by force the authority of the United States.

The governor bitterly complains of the suppression of his proclamation, instead of gratefully acknowledging the moderation which arrested its circulation instead of its author.

His reference to the Ohio election is unfortunate, for there was no more attempt to prevent men in Maryland voting for the secessionist elected in the 5th district than in Ohio to prevent men voting for Vallandigham. The order was absolutely silent respecting candidates; it looked exclusively to the legal character of the voter.

It is true, doubtless, that there is a union majority in Maryland over every traitor and treasonable sympathizer; but it is equally true that the secession vote in the slaveholding counties, united to the unionists of pro-slavery proclivities might control the senate and paralyze the house of delegates, and decide the question of emancipation against the will of the people; for a minority elect both houses of the legislature.

It was quite possible that the union vote might be so divided in the 1st district, as it was in the 5th district, as to allow the secessionists to elect a secessionist.

It would seem that "with these facts before us, it ought not to have been difficult for the governor to believe that the suggestion that the enemies of the United States may be foisted into power at the coming election, was the consideration that prompted this order."

The loyal people of Maryland invoked the aid of the military to protect them from the votes of the disloyal; and those only are indignant who wished by a humiliating coalition with the traitors to govern their loyal fellow citizens.

The order therefore was legal, not an usurpation, not a dictation to the loyal people, but at their instance, for their benefit, to exclude only arrant traitors whom the United States had a right to arrest even against the will of the people of Maryland.

The execution of the order was as fair and upright as the order itself was legal and its purpose honest.

The governor of Maryland has dealt in very general abuse of the officers charged with its execution, and numerous complaints are appended to his message in proof of his imputations.

But for these proofs we might have feared there was some foundation for the complaints; but the slightest inspection of those papers discredit them, and official documents disprove them.

We take the trouble to make a brief analysis of them, so that the accusation shall fail by the confessions of the accusers as well as the authentic history of the occurrences.

There are in Maryland twenty-one counties and the city of Baltimore, the latter containing one-third of the people of the State.

No illegal act is complained of by the governor in the city of Baltimore, or in sixteen of the twenty-one counties.

In one of the counties in which the election is pronounced void—Frederick—no candidate opposed Mr. Thomas for Congress; he received 3,987 votes, Mr.



Goldsborough received 3,985 votes, and his competitor, Mr. Maffit, got 751 votes.

The objection to this election is confined to one voting place.

At that place one person is stated to have been compelled to cast a ballot against his will.

The person who states this affirms that the votes of loyal voters were refused because they would not take the oath prescribed by General Schenck.

But he also says, "Your proclamation to the citizens and election judges of our State did not seem to be more regarded by the election judges at their polls than if it had never been issued."

So it was the judges of election who, the governor tells us, are the sole judges of the law, who thought his proclamation was not law, and who thought it was legal to require an oath as the test of citizenship.

Does one vote in one precinct in one county seriously compromise the seat of Mr. Thomas?

Every other complaint is confined to the 1st district, and to four only of the eight counties composing it; and so futile is the case made against those counties that the governor disclosed his sense of its weakness by the significant remark: "In the statements and certificates which have been forwarded to me from different counties in that congressional district, I have been furnished, I presume, with an account of part only of the outrages to which their citizens were subject."

It is, however, only on these that the case rests, and they are a frail justification of the aspersions thrown by the governor on honorable men and his victorious antagonists.

The chief complaints relate to Somerset, Worcester, and Kent counties.

Mr. John W. Crisfield, the anti-emancipation candidate, wrote an account of the outrages to the Postmaster-General.

On this the President promised to try any officer against whom the judges of election would file charges under oath.

This was published all over the district, but no charges were so preferred, except by the judges of Mr. Crisfield's precinct in his own county.

The irresponsible names, whose loose letters are appended to the governor's message, wisely rested there; and the judges of election everywhere in the district, except under the eye and influence of Mr. Crisfield, did not care or dare or wish to prefer charges under oath, or knew none to prefer.

It is to the charges against Captain Moore, at Mr. Crisfield's polls, Princess Ann, in Somerset county, that the governor alludes when he says, "And in another district, after only one vote had been given, the polls were closed, the judges all arrested and sent out of the county, and military occupation taken of the town."

The statement of Isaac D. Jones, (a secessionist ever since in 1832 he voted alone for secession resolutions in the Maryland legislature,) concurred in by fourteen other persons and the judges of election, but not under *oath*, goes into many details; but its substantial allegation is —

1. That Captain Moore executed order No. 53 and could not recognize the President's modification of it, because it had not been communicated to him.

Of course, in this he was right.

2. That he (Moore) challenged Brittingham, the first voter, and required the oath to be administered to him, which the judges did, saying it was done under coercion. He took it and voted.

No loyal man will complain because the oath was required. The voter himself did not complain, for he took it and voted.

It is not said that any threat or hint of a threat was made to the judges, so that their acting under coercion is not borne out by the admitted circumstances.

The next voter was Arthur W. Crisfield, son of the candidate. Captain Moore



questioned his loyalty ; an animated conversation ensued ; Captain Moore challenged him and demanded the oath. The judges said, " We disapprove of this mode of conducting the election ; we shall never get through : we are sworn to conduct the election according to the laws of Maryland. If we are not permitted to do so, we submit to arrest."

Of course, this dramatic style of language indicates invention. The judges certainly did not speak by inspiration the same words. What they really said we do not know. All we can *suppose* true is that they *declined* to administer the oath and were arrested ; and that is what they say in substance. That is dramatized thus :

*Captain Moore.* " You refuse then to carry out the order of General Schenck ?"

*Judges.* " We decide to obey the proclamation of the governor and the order of the President."

Now the order of the President did not forbid, but approved the oath, and the governor's proclamation, however gratuitous and unauthorized it was, did not forbid it nor say it was illegal. So the conversation is quite unintelligible.

The statement proceeds : Captain Moore *then*—that is, at the close of this conversation—arrested the judges, and said it was for refusing to obey General Schenck's order.

The judges then, that is, after their arrest, said the election was closed, and Captain Moore required them to report under arrest to him at a hotel.

Sydney C. Long, candidate for register of wills, thus states the case :

Arthur W. Crisfield was, after signifying his willingness to take the oath, interrogated by Captain Moore, and on the judges demurring to such proceedings, in a respectful manner, said vote was not taken, and they were immediately put under arrest, and the election thus arbitrarily stopped.

By the former statement Mr. A. W. Crisfield did not express his willingness to take the oath, and the judges refused to administer the oath. This statement omits that refusal, and insinuates the vote was not taken, because the judges were arrested by Captain Moore. But the President, on the oath of these judges, ordered a military commission, presided over by General D. Tyler, a most upright and honorable gentleman, and for many years in the United States army, to try Captain Moore. That court found, on full examination of the witnesses, face to face, that the closing of the polls preceded the arrest of the judges ; that Captain Moore was not guilty of transcending General Order No. 53, and that he was not guilty of hindering Arthur W. Crisfield from voting, while willing to take the oath of allegiance. Your committee have carefully inspected the record of the proceedings of the commission, and append hereto the President's order, with the findings of the commission, marked E. This disproves the two main allegations of the persons whose clamors the governor has published. It shows that the judges were not hindered in continuing the election, but refused to conduct it, and closed the polls of their own free and petulant will, and that the military force did not break up the election, nor hinder A. W. Crisfield from voting.

But it ought further to be stated, that Captain Moore not only did not arrest the judges first, and close the polls afterwards, but after the judges had needlessly and wilfully abandoned the election, and closed the polls, Captain Moore called on the people present to choose other judges, under the law of Maryland providing for that contingency, and to proceed with the election, which they refused to do.

It is thought the whole procedure of closing the polls, and refusing to elect new judges, was arranged before the poll opened, and received the countenance of the anti-emancipation leaders. The transaction certainly bears that aspect.

It is useless to go over the jumble of unauthenticated complaints from other regions of the same county. This one has been judicially investigated and



found to be false, though brought forward by seventeen men, claimed to be truthful.

It may throw some light on the election in this county to state that in one district the secessionists armed themselves, drove the officer and men from the neighborhood of the polls, and took possession of them for the day; and that at these polls Mr. Creswell received but nine votes, out of a total vote of over 200. That in the county, while Mr. Creswell received 348 votes, and Mr. Crisfield received 691 votes, the secessionist local candidate received 834 votes, which were not cast for either candidate for Congress, but confined to the county and legislative ticket, and elected the whole of it; and the county is now represented by what is understood to be an unbroken secession delegation in the legislature, one of them under parole for his good conduct!!

We think this sufficiently illustrates the expediency of the order, the peculiar circumstances requiring it, and the entire groundlessness of the complaints of violence and outrage, published to the world, by the governor of Maryland.—They serve no purpose but to aid the enemies of the government, and to prove that the anti-emancipationists, having lost the election, lost their temper also.

The other case specially dwelt on by the governor, is that of Colonel C. C. Tevis, in Kent county. The following is his account of it:

“On the day preceding the election, the officer in command of the regiment which had been distributed among the counties of the eastern shore, and who had himself landed in Kent county, commenced his operations by arresting and sending across the bay some ten or more of the most estimable and distinguished of its citizens, including several of the most steadfast and uncompromising loyalists of the shore. The jail of the county was entered, the jailor seized, imprisoned and afterwards sent to Baltimore, and prisoners confined therein under indictment were set at liberty. The commanding officer referred to gave the first clue to the character of the disloyalty against which he considered himself as particularly commissioned, by printing and publishing a proclamation in which, referring to the election to take place the next day, he invited all the truly loyal to avail themselves of that opportunity and establish their loyalty ‘by giving a full and ardent support to the whole government ticket upon the platform adopted by the Union League Convention,’ declaring that ‘none other is recognized by the federal authorities as loyal or worthy of support of any one who desires the peace and restoration of the Union.’

“To secure the election of that ticket seemed to be the business to which he and his officers especially devoted themselves throughout the day of election. In the statements and certificates which had been forwarded to me from different counties in that congressional district, I have been furnished, I presume, with an account of part only of the outrages to which their citizens were subjected. The ‘government ticket’ above referred to, was, in several, if not all of these counties, designated by its color; it was a yellow ticket, and armed with that, a voter could safely run the gauntlet of the sabres and carbines that guarded the entrance to the polls, and known sympathizers with the rebellion were, as certified to me, allowed to vote unquestioned, if they would vote that ticket, whilst loyal and respected citizens, ready to take the oath, were turned back by the officers in charge without even allowing them to approach the polls.”

Your committee are credibly informed that scarcely a line of this narrative gives a truthful impression of the events.

The arrest of the ten or more of the most estimable and distinguished of the citizens of Kent, which preceded the election had nothing to do with the election, and was for very different causes.

On October 31, 1863, Mr. B. H. Gardener complained in writing to Colonel Piatt, that he had been indicted and held to bail in \$3000 for enlisting negroes for the United States, called in the indictment, “*abducting slaves;*” and that



"the principal actors in the affair was Jas. B. Ricaud, candidate for the State senate, Geo. Vickers, sr., Jesse H. Hines, David A. Benjamin, Colonel Edward Wilkins, William P. Francis, Thomas Baker, John D. Todd, George B. Westcott, Samuel W. Spence, and Charles Stanly."

On this complaint an order was made on the 1st of November, 1863, as follows: "Colonel Tevis will arrest the above-named men, and send them to these headquarters."

It is well known that the judge of that district is a violent secessionist, who had repeatedly prostituted the power of the judiciary into an instrument for the prosecution of loyal men; he had caused the indictment of General H. H. Goldsborough, for arresting certain traitors, though he did not dare actually to incarcerate him on his indictment; and for that and other outrages he had been arrested and sent to Fort Warren, when he was released by a mistaken clemency amounting to infatuation; and he signalized his return to the bench by a renewal of his evil practice, till the public indignation has lately compelled him to resign his judicial position.

Of course, it was not to be expected that the United States would allow a disloyal judge to pervert the judicial machinery of the State to annul the law allowing slaves to volunteer; and the order for the arrest of the parties implicated was given.

When Colonel Tevis arrived in Kent county he learned that Medlers, Perkins, and Fisher, had been also concerned in this prosecution, and they were also arrested for that cause. All who were arrested were sent to Baltimore on the 3d of November.

Mr. George Vickers had also written an article, published in the "Kent News," on the 26th and 31st of October, inciting the people to resist by force the enlistment of slaves, and the publisher of that paper was arrested with Vickers.

Now, to cite these arrests as the commencement of military interference with the election, and to suppress the sufficient and wholly different causes for the arrest, evinces a want of that candor which should characterize an executive communication. Other proof than a mere inuendo must connect them with the elections.

Colonel Tevis, after executing this order, issued, on the advice of the provost marshal, the proclamation of which the governor complains, and whose words he quotes, but colors with an insinuation which their meaning will not justify.

That proclamation was beyond the authority given to Colonel Tevis, but the suggestion conveyed by the governor that the military were used to enforce that proclamation is wholly without proof. It is quite certain that only fifty copies were printed; that the provost marshal declared that all of them were withdrawn and suppressed before the election, and nowhere was there the least attempt to exclude any one from voting for the anti-emancipation or for the secession candidates; and the governor does not venture to say that any such attempt was actually made.

So soon as this proclamation was known in Baltimore, the use which would be made of it to connect it with the arrests and to assail the integrity of the election was seen, and it was instantly disapproved by the general, Colonel Tevis ordered to be arrested, and the persons who were candidates were at once returned to Kent by steamer, on the night of the 3d of November, and they arrived early on the 4th, the day of election. Mr. Ricaud now sits in the State senate from that county. They were returned, after disclaiming any share in the prosecution of Gardner, but on parole to appear for further investigation.

The statement of outrages in Kent, on which the governor relies, is signed by four persons who are considered as avowed and notorious secessionists of the county, and by nobody else—E. Couch, W. H. Pennington, Philip Medlers, and S. Comegys—all defeated secession candidates at that election. To what consideration is their statement entitled? Besides it there is nothing impeaching the



election in that county. No union man has furnished the governor with any statement of facts.

But what is conclusive of itself, is that these defeated candidates do not say that any one legal voter, who would take the oath, was hindered from voting, nor that any one person was coerced to vote against his wishes, nor that any one was hindered from approaching the polls by any threat or violence of our soldiers, or by the fear of it. Their whole complaint is that the *authority of the United States was present*; and this, to disloyal men, was grievance enough to avoid the election.

On the other hand, the report of Colonel Tevis, a loyal gentleman, is entitled to quite as much weight as the governor's surmises and insinuations, unsupported by facts, and to vastly more weight than any statement of defeated and angry secessionists.

Colonel Tevis, in his official report, makes the following statement :

"Captain Frazier informed me that repeated threats had been made against his life, and that, unless some decided stand were taken by the military authorities, there would be serious disturbances at the polls. In consequence of this, I seized all the arms in the possession of suspected persons; private fowling-pieces were returned to their owners on the day succeeding the election, and *some four boxes of United States muskets, many of them loaded*, were sent to Baltimore. A number of cavalry sabres and revolvers were seized, later, by some of my officers, and are now in this camp awaiting your orders. From observation and report I am convinced it was the intention of the secesh and anti-government party to seize the polls and prevent the small minority of loyal men from voting; for the inhabitants of Kent county are, as a class, as truly disloyal as any of their friends actually in rebellion, and are only prevented by their isolated position, on the other side of the Chesapeake bay, from openly taking up arms against the Union."

After detailing the disposition of his force he proceeds :

"The orders to these officers were 'to carry out department General Orders No. 53 to the letter, and to avoid all violence.' In accordance with these orders the oath therein prescribed was administered to every one whose loyalty was questioned; and on that oath being taken every one was allowed to vote. Not more than six in all refused, although some were deterred from coming to the polls by the knowledge of the fact that it would be required of them. There was no disturbance of any kind at any poll, and no complaint was made to me by any one of violence or of undue exercise of authority on the part of the military, except in cases of liquor sellers, all of whose establishments were closed by orders till after the election.

"A letter signed A. P. Thruston, Captain, &c., from department headquarters, directed me to secure, when practicable, all copies of Governor Bradford's proclamation, which was I believe widely circulated, but I saw no copy of it myself until after my return to this place. Captain Pemberton, 3d Maryland cavalry, destroyed every copy which fell into his hands.

"At the polls at Massey's Cross-roads, a Lieutenant-Colonel Massey, 2d regiment Home Guards, rendered himself extremely officious by his exertions in favor of the anti-administration ticket; I found him there on my arrival, in the judges' room, where he seemed to preside."

After thus disposing of the flagrant charges, it is useless to consume time in showing the worthlessness of petulant and incoherent tattle, scrawled by insignificant but virulent enemies of the nation or mere partisans disappointed of office.

There does not appear to your committee the least reason to believe that a single person was hindered from voting by the military in the 1st congressional district, who had not been engaged in the rebel service or in aiding and abetting

them, nor that the judges excluded any voter who proved his citizenship by confessing its obligations under oath.

The case of Isaac J. Davis, at the 1st election district in Worcester, falls in the first category; as also Joseph C. Bush, at Salisbury, who was willing enough to take the oath, but was notoriously giving aid and comfort to the enemy by carrying the mail to and from Virginia.

The previous elections in Maryland have been so grossly misrepresented, and yet have been so decisive and throw so much light upon the last, that we think we cannot more fitly close this part of our labors than by briefly recounting them since the rebellion.

At the special election of the 24th of April, 1861, in Baltimore, the secession candidates were not opposed and received about 9,000 votes.

On the 13th of June, following, a special election was held for Congress. The question was, war or peace, which meant union or disunion.

There were no military orders nor any military interference, and none were ever pretended.

In the 6th district—

Calvert, union, received.....	4,467
Harris, disunion.....	4,305

In the 5th district—

Thomas, union, received.....	10,582
No opposition, but scattering votes.....	320

In the 4th district—

Davis, war.....	6,212
May, peace.....	8,420

In the 3d district—

Leary, union.....	6,702
Preston, secesh.....	6,200

In the 2d district—

Webster, union.....	7,251
No opposition, scattering votes.....	126

In the 1st district—

Crisfield, union.....	7,181
Henry, secesh.....	5,331

Aggregate vote.....	63,597
Union vote.....	43,750

Union majority.....	19,841
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There was no military force anywhere but in the 4th district in Baltimore City. The city was in the hands of Kane's police of the 19th of April memory; the secessionist police commissioners ruled the city, and they organized a special police of 1,900 men for the day of election, which with the 400 or 500 regular police, about equalled the secessionist majority for May.

The next election was that for governor, in November, 1861. Bradford was the union candidate, Howard was the disunion candidate. The only issue was union or disunion. The orders above quoted were issued, but Governor Bradford



does not think them wrong; and everybody knows there was no military force used to execute them—except in Worcester county on the Virginia line.

At that election—

Bradford received.....	56,498
Howard received.....	26,086
	<hr/>
The aggregate vote was.....	83,584
	<hr/>
Bradford's Union majority.....	31,412
	<hr/>

Bradford's vote was the largest vote ever cast in Maryland for any candidate.

His majority was greatly the largest ever received in Maryland. The aggregate vote was not so large as that at the Presidential election by about 8,900, but the falling off was in Baltimore, where the secessionists in part did not vote, Bradford receiving 17,922 votes and Howard receiving 3,347, making an aggregate of 20,269, instead of 29,063 cast for the three Presidential candidates.

On the great question of emancipation in Maryland, union men resolved to settle it without the aid of traitors or those who disavowed their allegiance to the United States. The anti-emancipationists, however, sought the aid of secessionists, and failed to get it except in one or two counties. Their votes, when cast at all, were cast for secessionist candidates, and not for the anti-emancipation union candidates. It is singular that *this* fact should not have silenced the complaints of the defeated unionists.

The returns from the State show that a small vote was cast everywhere; in three of the districts there was no competing candidate for Congress, and of course the vote was small, for no one doubted the result between Goldsborough and Maffit, the emancipation and anti-emancipation candidates for comptroller.

In the 5th district, however, there was a severe contest between an emancipationist, an anti-emancipationist, and a secessionist; the vote was pretty full, lacking less than a thousand of the vote in the animated contest of 1861, being about 8,000. The joint union vote was greater than the secession vote by 1,100. The secessionists had only 599 majority over the highest union candidate. The governor does not complain of the freedom of the election in *that* district being invaded.

In the first district there was also a contest, but it was between emancipation and anti-emancipation unionists. There was no secession candidate. The election returns correspond with this state of facts. The union vote is fully out. The secession vote was not cast, except very partially, and for local county officers almost exclusively. They stood indifferent between the competing loyal candidates, except in Cecil county. The returns show that the vote cast for the two union candidates was rather above the union strength formerly developed in that district.

In Caroline county the vote was—

For Crisfield (union) in 1861.....	973
He and Creswell got in 1863.....	1,330

In Queen Anne county—

Crisfield got in 1861.....	860
He and Cresswell got in 1863.....	833

In Dorchester county—

Crisfield got in 1861.....	1,413
He and Creswell got in 1863.....	1,627

## In Talbot county—

Crisfield got in 1861.....	824
He and Cresswell got in 1863.....	729

## In Somerset—

Crisfield got in 1861.....	1,891
He and Creswell got in 1863.....	1,139

(It was in this county that the judges closed one of the chief polls, and so reduced the union vote.)

## In Worcester county—

Crisfield got in 1861.....	1,120
He and Creswell got in 1863.....	1,803

(In this county Cresswell actually received 1,347 votes, many more than the whole union vote in 1861.)

## In Kent county—

Webster got in 1861 .....	938
Crisfield and Creswell got in 1863.....	1,057

## In Cecil county—

Webster got in 1861.....	1,697
Crisfield and Creswell got in 1863.....	3,807

In this county there was a coalition between the anti-emancipationists and a part of the secessionists, which swells the aggregate.

It has already been explained that in Somerset county about 800 secessionists voted for and elected all the county officers, but would not support Mr. Crisfield in his own county, and voted for nobody for Congress or comptroller. In the face of these facts, comment is useless and misunderstanding impossible. It is clear—

1st. That the whole union vote was thrown for the two union candidates for Congress.

2d. There is not the least proof of any undue influence exerted between the union candidates and the voters by the military authority.

3d. Except in one county the secessionists did not vote for Congress to any extent, but confined themselves to local candidates or abstained from voting at all.

Your committee append to this Report the Proclamation of the Governor of Maryland, of the 3d November last, with documents thereto attached and marked F; and a copy of the proclamation of General Schenck, commander of the department, of the same date, (marked G,) accompanied by the letter of the President of the day before. This they deem due alike to the subject and to the character of the parties concerned.

The contrast of the conduct of the Governor of Delaware and of the governor of Maryland will fitly close this report.

The latter treated the order of General Schenck as an insult to the loyalty of Maryland, and an usurpation against her laws.

The former accepted the order as the best expression of the wishes of the loyal people, glad to receive aid in preserving the ballot-box from rebel votes; and added at its foot his exhortation to the good people and officers of Delaware to aid in its enforcement, and stamped his approbation by fixing the seal of State.



The legislature of Delaware, at their session in March, 1863, under the control of a political party hostile to the principles on which the present administration came into power, and acting under the passions inspired by the report of a joint committee of the two houses to take proofs of the "interference" of the federal military officers in the election in that State of the preceding year, passed a very stringent and penal act for the punishment of such interference. We append a copy of this act, marked H. The committee, in their voluminous report, seem blind to the fact that a state of things existed in Delaware not less deplorable than that which prevailed in Kentucky, and evince the same bitter hostility to the national administration, its principles and policy—a hostility not surpassed in its style of denunciation even by the rebel journals published at Richmond. The following extract will be sufficient to characterize the whole document:

"Your committee might, perhaps, with propriety here close their report, submitting the facts elicited without further comment, to the general assembly and people of the State, as conclusive of a deliberate design and purpose on the part of the leading republican politicians of the State, and an unscrupulous and despotic administration at Washington, to invade the sovereignty of Delaware, and trample under foot the most sacred right of her citizens. The great indignity, however, offered to the State by the federal authorities in the invasion of her soil by federal soldiery for the purpose of influencing the result of an election, will justify the committee in expressing, in conclusion, their unqualified condemnation, both of the action of the federal administration and the traitorous conspirators among our own citizens, who, for partisan purposes alone, sought to defeat the fair expression of the popular will at the polls by the potent influence of federal bayonets.

"The relations of State and federal authority are too plainly defined by the written Constitution, that gives to the general government every power which it can rightfully exercise, and are too well understood by the people of the whole country to permit your committee, even in the exercise of the most liberal charity, to ascribe this great outrage to the ignorance and imbecility of the novices at Washington. Influenced by party considerations alone, the federal administration, disregarding the limitations upon federal power plainly written in the Constitution of the country, has been guilty before the whole country of invading one of the smallest States of the Union, not at the instance and request of the constituted authorities of the State, but at the solicitation of corrupt and unscrupulous neighborhood politicians. If this administration had done no previous wrongful act; if its history had been marked by a strict regard for constitutional obligations; if it had not unnecessarily plunged the whole country in ruinous civil war; if it had built no bastiles; deprived no man of his liberty; suspended no writs of habeas corpus; muzzled no presses, nor invaded the right of free thought and free speech, this single act of invading one of the feeblest States of the Union, for no other purpose than to determine the result of her local election, is, and ought to be, sufficient to brand it with infamy and everlasting disgrace. Reprehensible, however, as has been the action of the powers at Washington, its criminality finds a parallel in the disgraceful, wicked, damning treachery of the ingrate conspirators in our own midst, who, with malign hearts and lying lips, assured the administration of the necessity for its interference with the domestic concerns of Delaware, and by deception and falsehood gave the excuse to irresponsible power for the outrage and wrong of which your committee complain. No language could betray their baseness. No time can efface their guilt, or remove the stigma from their memory. Your committee will, therefore, turn from objects so loathing, and leave them to the judgment of their fellow-men, objects of contempt and scorn."

It is but another instance of that blind party rage which has contributed so much to embarrass and protract the war, by giving encouragement to the insur-

gents, and strengthening their hopes that the internal dissensions of the loyal States will in the end insure their success and independence.

The statute of Delaware, founded upon this report, and upon the joint resolutions of the two houses of January 29, falling little short of a declaration of war against the United States, (hereto appended, marked I,) is plainly in violation of the federal Constitution. It is true it assumes to punish only such military officers as are "*citizens or inhabitants*" of that State, for having soldiers present at any voting place; but it is obvious that the State has no more authority to control such officers, or to punish them for acts done in the line of their duty, as military officers in the service of the United States, than to do the same thing to others not citizens or inhabitants of Delaware. If she can do it in the one case she may in the other; and if she can dictate what the national military forces shall not do on one occasion within her limits, she may carry her pretensions to the length of excluding them entirely from her borders. It was out of just such claims of State prerogative that the principle and practice of secession and rebellion sprang. The government of the United States would be weak and contemptible indeed should it permit for a moment its military officers to be dealt with by any State, large or small, for acts done in pursuance of their duty and by the command of their superiors, especially in time of war.

On the 13th of November, 1863, General Schenck, then in command of the 8th army corps and of the middle district, embracing Delaware, issued his proclamations (appended and marked K,) prohibiting all persons from voting at the then ensuing election who had been engaged in rebellion against the government, or who had given aid and comfort or encouragement to others so engaged, or who did not recognize their allegiance to the United States.

We think this measure was justified not only by the state of disaffection notoriously existing in that State, but by the acts of hostile legislation which we have cited. Precisely the same reasons for it existed as had demanded the like proclamations of General Schofield in Missouri, General Burnside in Kentucky, and General Schenck in Maryland. And we take pleasure in adding that Governor Cannon, blessed with a clearer insight into the necessities of the times, and a clearer perception of the demands of patriotism, than the governor of Maryland seemed to possess, gave his ready aid to this proclamation, repressive only of traitors and protective of loyal men.

The committee see no necessity for such legislation as is proposed by the bill referred to them, and report the same back to the Senate, and recommend that it do not pass. All which is respectfully submitted, and the committee ask to be discharged from the further consideration of the subject.

J. M. HOWARD,  
*For the Committee.*





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